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NOTE

From: General Secretariat of the Council

To: Antici Group (Simplification)

No. Cion doc.: 6609/25

Subject: Proposal for a REGULATION amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment mechanism

- Presidency first compromise text

Delegations will find in the Annex the Presidency compromise text in the form of amendments to the initial Commission proposal, which was set out on doc. ST 6609/25 + ADD1.

Presidency compromise text

NOTE:

In addition to the “consolidated” text of CBAM (doc. ST 7437/25), where the text of the first Presidency compromise is integrated, **the present document shows the first compromise text in the form of the amendments to the initial Commission proposal.**

Amendments to the initial Commission proposal are in **red bold underlined**, deletions in **red strikethrough**.

Only recitals 2 to 6 of the Commission proposal are amended, as they accompany the new text of the suggested Article 2a. The remaining recitals of the Commission proposal will be updated at a later stage, when the main text of the draft amending Regulation is stabilized.

On substance, the contents of this document are **identical to the Presidency amendments (compromise) set out in doc. 7437/25 + COR 1.**

DRAFT

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment mechanism

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C , , p. .

² OJ C , , p. .

- (1) During the transitional period, which started on 1 October 2023, the Commission has been collecting data and information on the implementation of the Carbon Border Adjustment Mechanism ('CBAM') as provided for in Regulation (EU) 2023/956 of the European Parliament and of the Council¹, including through the analysis of quarterly reports submitted by reporting declarants. The information collected and the exchanges with the stakeholders, including as part of the expert group on the CBAM, have outlined possibilities for simplifications and improvement of the CBAM. The Union is committed to ensure a smooth roll-out of the CBAM during the post-transitional period starting on 1 January 2026.
- (2) Based on the experience acquired and data collected during the transitional period, the distribution of importers of CBAM goods into the Union shows that only a small proportion of importers accounts for the vast majority of ~~embedded~~-emissions embedded in ~~these imported~~ goods. The derogation applied to the importation of goods of negligible value referred to in Article 23 of Regulation (EC) No 1186/2009 (consignments of a value below EUR 150) appears insufficient to ensure that the CBAM applies to importers in proportion to their impact on emissions covered by Regulation (EU) 2023/956. For those importers of small quantities of goods, compliance with CBAM reporting and financial obligations could be unduly burdensome. Furthermore, as part of the 2023 Customs reform package, the Commission proposed to remove this derogation. Therefore, a new derogation should be introduced to exempt importers of small quantities in terms of mass of CBAM goods from CBAM obligations, while preserving the environmental objective of that mechanism and its capacity to achieve its climate objective.

¹ Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, p. 52, ELI: <http://data.europa.eu/eli/reg/2023/956/oj>).

(3) A new threshold based on cumulative mass per importer per year should be introduced in Regulation (EU) 2023/956 and initially set at a level of 50 tonnes. A single mass-based threshold should apply cumulatively to all goods in the sectors of iron and steel, aluminium, fertilisers and cement, but not electricity and hydrogen. Where the net mass of all goods imported by an importer in a given calendar year does not cumulatively exceed the single mass-based threshold, such importer should be exempted, in the relevant calendar year, from the obligations under this Regulation. As from the moment that, within the relevant calendar year, an importer exceeds the single mass-based threshold, that importer should be subject to all obligations under this Regulation in respect of all emissions embedded in all goods imported in the relevant calendar year, including, in particular, the obligation to obtain the status of authorised CBAM declarant before any further goods are imported into the customs territory of the Union, the obligation to submit a CBAM declaration in respect of all emissions embedded in all goods imported in the relevant calendar year and the obligation to purchase and surrender CBAM certificates in respect of all those emissions.

- (4) The establishment of the single mass-based threshold that reflects the average emissions intensity of the volume of the imported goods pursues the objective of ensuring that at least 99% of emissions embedded in imported goods remain in the scope of the CBAM. This represents a robust and targeted approach as it accurately reflects the environmental nature and the climate objective of the CBAM while substantially reducing CBAM-related administrative burden for the importers, as a vast majority of importers will be exempted from the obligations under the CBAM and, at the same time, the CBAM continues to apply to at least 99% of emissions embedded in the imported goods. This approach also eliminates the risk of circumvention through an artificial splitting of consignments by a single importer..**
- (5) The Commission should each year assess, on the basis of the import data for the preceding 12 calendar months, whether a material change has occurred in the average emission intensities of the goods or in the pattern of trade in goods, including practices of circumvention. In order to ensure that at least 99% of emissions embedded in the imported goods remain in the scope of the CBAM, the Commission should adopt acts in accordance with Article 290 in order to amend the single mass-based threshold set out in point 1 of Annex VII by using the methodology set out in point 2 of that Annex. To ensure effectiveness and certainty, the Commission should only adopt such acts where the value of the resulting threshold deviates from the applicable threshold by more than 5 tonnes. The amended threshold should apply as from the beginning of the following calendar year.**

- ~~(3) A new threshold based on cumulative mass per importer per year should be introduced in Regulation (EU) 2023/956, ensuring that more than 99% of emissions are maintained in scope. This is a robust and targeted approach as it accurately reflects the environmental nature of the CBAM by taking into account all imported emissions over a period of time in determining the threshold. It also eliminates the risk of circumvention through the artificial splitting of consignments by a single importer.~~
- ~~(4) A mass-based threshold reflecting the average emissions intensity of the volume of imported CBAM goods would better translate the climate objective of the CBAM. A single mass-based threshold applying cumulatively to all CBAM goods in the iron and steel, aluminium, fertilisers and cement sectors imported by importers during a calendar year is the simplest design for importers, as they will not have to obtain or provide any data additional to those provided in the customs declaration, thereby reducing substantially any CBAM-related administrative burden for these importers. A threshold set at a level of 50 tonnes will exempt the vast majority of importers from obligations under Regulation (EU) 2023/956 while maintaining more than 99% of embedded emissions in the scope of the CBAM. To establish the threshold, a new Annex VII should be introduced.~~
- ~~(5) The main principles governing the threshold, including ensuring that nearly all embedded emissions remain in the scope of the CBAM, should be laid down in Regulation (EU) 2023/956 to provide legal certainty. Regulation (EU) 2023/956 should also provide for the possibility to re-calculate the threshold on the basis of updated average emission intensities of imported goods or significant changes in trade patterns or practices of circumvention affecting the coverage of embedded emissions in the scope of the CBAM.~~
- (6) To ensure that the derogation is sufficiently targeted, it should apply to the importer the single mass-based threshold should be calculated for each importer, including those with the status of authorised CBAM declarant. The indirect customs representative, due to the nature of its activity and the related obligations under Regulation (EU) 2023/956, should always be required to obtain an authorisation the status as authorised CBAM declarant.

- (7) The competent authorities and the Commission should – based on customs information – monitor the quantities of goods imported to assess compliance with the threshold. To allow the competent authorities to make an informed decision, the customs authorities and the Commission should make the necessary information and data available to the competent authorities. Where the competent authority concludes that an importer has exceeded the threshold, it should communicate that information to the customs authorities who, in turn, should not allow further importation of goods from that importer until the end of the calendar year, or until that importer has obtained the status of authorised CBAM declarant.
- (8) Where an importer expects to exceed the annual threshold or intends to import goods after exceeding the threshold, the importer should apply for authorisation pursuant to Article 5 of Regulation (EU) 2023/956. For importers who have not been granted the authorisation before exceeding the threshold, penalties should apply for the entirety of the imported goods in accordance with Article 26(2) of Regulation (EU) 2023/956. The payment of the penalty in accordance with Article 26(2) of that Regulation should release the importer from the obligation to submit a CBAM declaration and to surrender CBAM certificates.
- (9) To ensure that the definition of an importer covers all relevant customs procedures, it is necessary to amend it to include the case of the simplified customs procedure where only a bill of discharge is submitted pursuant to Article 175(5) of Commission Delegated Regulation (EU) 2015/2446¹.
- (10) To strike a balance between the effectiveness of the authorisation procedure and the risk profile of the applicants, the consultation procedure should be optional for the competent authority. The consultation procedure should allow the competent authority to consult other competent authorities and the Commission when considered necessary based on the information submitted by the applicant and customs information made available in the CBAM registry.
- (11) To provide additional flexibility, the authorised CBAM declarants should be able to delegate the submission of the CBAM declaration to a third party. The authorised CBAM declarant should remain liable for the submission of the CBAM declaration. To provide the required delegation and access, that third party should fulfil certain technical credentials, including holding an Economic Operators Registration and Identification (EORI) number and being established in a Member State.

¹ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015 p. 1, ELI: http://data.europa.eu/eli/reg_del/2015/2446/oj).

- (12) Authorised CBAM declarants are required to submit their annual CBAM declaration and surrender the corresponding number of certificates by 31 May of the year following the year of import. In order to provide authorised CBAM declarants flexibility to comply with their obligations, a later date of submission would provide authorised CBAM declarants more time to collect the necessary information, ensure that embedded emissions are verified by an accredited verifier, and purchase the corresponding number of CBAM certificates. The date for the cancellation of CBAM certificates should be adjusted accordingly.
- (13) The embedded emissions of some aluminium and steel goods currently included in the scope of CBAM are primarily determined by the embedded emissions of input materials (precursors), while the emissions arising during the production steps of those goods are typically relatively low. They consist of finishing processes that are carried out by separate installations not covered by the EU emissions trading system ('EU ETS') as provided for in Directive 2003/87/EC of the European Parliament and of the Council¹, except for the case of integrated facilities. The embedded emissions of those production processes should be excluded from the system boundaries of the calculation of emissions.
- (14) Where input materials (precursors) have already been subject to the EU ETS or to a carbon pricing system that is fully linked with the EU ETS, the embedded emissions of those precursors should not be accounted for in the calculation of the embedded emissions of complex goods.
- (15) Authorised CBAM declarants are required to submit an annual CBAM declaration containing the calculation of embedded emissions on the basis of either default values or actual values verified by accredited verifiers. Default values will be calculated and made available by the Commission. Therefore, the verification of embedded emissions should only apply to actual values.
- (16) Information collected during the transitional period illustrates difficulties for reporting declarants to obtain the required information on the carbon price effectively paid in a third country. To facilitate the deduction of the carbon price, the Commission should, where possible, establish an annual average carbon price expressed in EUR/tCO_{2e} of the effective carbon price paid, based on the best available data from reliable, publicly available information and information provided by third countries, including on a conservative basis.

¹ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/oj>).

- (17) Authorised CBAM declarants may claim a reduction in the number of CBAM certificates to be surrendered corresponding to the carbon price effectively paid in the country of origin for the declared embedded emissions. Since the carbon price may be paid in a third country other than the country of origin of the imported goods, such carbon price should also be eligible for deduction.
- (18) To improve the reliability of the emissions data contained in the CBAM registry and to facilitate the submission of data, accredited verifiers should be allowed to access the CBAM registry to verify the embedded emissions upon request from an operator in third countries. In addition, parent companies or related undertakings of those operators should be allowed to access the CBAM registry for the purpose of registering and sharing relevant data on behalf of the controlled operator. The operators should be required to provide a corporate or activity registration number to ensure their identification.
- (19) To foster the implementation of Regulation (EU) 2023/956 at national level, Member States should ensure that the competent authorities have the necessary powers to perform their duties.
- (20) To provide authorised CBAM declarants sufficient time to prepare for compliance with the amended obligations under Regulation (EU) 2023/956, Member States should start selling CBAM certificates in 2027 for emissions embedded in goods imported during the year 2026. The price of CBAM certificates, purchased in 2027 and corresponding to emissions embedded in goods imported into the EU in 2026, should reflect the prices of EU ETS allowances in 2026.
- (21) The obligation for the authorised CBAM declarants to ensure that the number of CBAM certificates on their account in the CBAM registry at the end of each quarter corresponds to at least 80 % of the emissions embedded in the goods they have imported since the start of the year, is insufficiently tailored to the expected financial adjustment. It is therefore necessary to both reduce the ratio from 80 % to 50 % and integrate the free allocation of EU ETS allowances. Furthermore, the authorised CBAM declarant should be able to rely on the information submitted in the CBAM declaration in the previous year, for the same goods and third countries.
- (22) The repurchase limit should likewise align more accurately with the number of CBAM certificates which the authorised CBAM declarants are required to purchase during the year of imports.
- (23) Since CBAM certificates are cancelled without any compensation, there is no need for an exchange of information from the common central platform to the CBAM registry at the end of the working day.

- (24) The competent authorities, when applying penalties, should be able to take into account the specific circumstances such as the intentional or negligent behaviour of the declarant. That would allow for a reduction of the amount of the penalty where minor or unintentional errors are made.
- (25) The CBAM applies to certain carbon-intensive goods imported into the Union. The list of CBAM goods in Annex I of Regulation (EU) 2023/956 includes ‘[o]ther kaolinic clays’ in the list of cement goods. While calcined kaolinic clays are carbon-intensive products, this is not the case for non-calcined kaolinic clays. Non-calcined kaolinic clays should therefore be excluded from the scope of the CBAM.
- (26) Annex II to Regulation (EU) 2023/956 lists the goods for which only direct emissions should be taken into account in the calculation of embedded emissions. For goods not listed in that Annex, both direct and indirect emissions should be taken into account. Since indirect emissions are not relevant in the case of electricity generation, electricity should be added to the list of goods in that Annex.
- (27) It is also necessary to simplify the means for determining default values when reliable data for the exporting country would not be available for a certain type of goods. In such cases, to prevent carbon leakage, the default value should be set at the level of the average emission intensity of the ten exporting countries with the highest emission intensities for which reliable data is available, which is an appropriate average to ensure the environmental objective of the CBAM. This is without prejudice to the possibility to adapt these default values based on region-specific features pursuant to point 7 of Annex IV of the CBAM.

- (28) In order to amend certain non-essential elements of Regulation (EU) 2023/956, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the threshold in Annex VII to that Regulation, where necessary, as determined in accordance with Article 2(3a) of that Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making*. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

* Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on

Better Law-Making, Interinstitutional Agreement of 13 April 2016 on Better Law-Making, (OJ L 123, 12.5.2016, p. 1–

14, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj).

- (29) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, namely simplifying certain obligations and strengthening the mechanism that the Union has adopted to prevent the risk of carbon leakage and thereby reduce global carbon emissions but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (30) Regulation (EU) 2023/956 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2023/956

Regulation (EU) 2023/956 is amended as follows:

(1) Article 2 is amended as follows:

(a) paragraph 3 is replaced by the following:

‘3. By way of derogation from paragraphs 1 and 2, this Regulation shall not apply to goods to be moved or used in the context of military activities pursuant to Article 1, point (49), of Commission Delegated Regulation (EU) 2015/2446*.

*Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1, ELI: http://data.europa.eu/eli/reg_del/2015/2446/oj).’;

(b) ~~the following paragraph 3a is inserted:~~

~~‘3a. By way of derogation from paragraphs 1 and 2, importers, including authorised CBAM declarants, shall be exempted from the obligations under this Regulation, where the goods listed in Annex I, with the exception of electricity and hydrogen, do not exceed, cumulatively per calendar year, the mass-based threshold laid down in point 1 of Annex VII.~~

~~The threshold laid down in point 1 of Annex VII shall ensure that at least 99% of the emissions embedded in the imported goods and processed products pursuant to Article 2(1) and (2) are not covered by the derogation referred to in the first subparagraph.~~

~~The Commission is empowered to adopt delegated acts to amend the mass threshold set out in Annex VII to reflect a material change in the average emission intensities of goods used for the calculation of the threshold laid down in point 1 of Annex VII, or significant changes in the pattern of trade in goods, including practices of circumvention of that threshold as referred to in Article 27(2), point (b).’;~~

(1a) the following article is inserted:

'Article 2a

De minimis exemption

- 1. An importer, including importers with the status of an authorised CBAM declarant, shall be exempted from the obligations under this Regulation, where the net mass of the imported goods in a given calendar year does not cumulatively exceed the single mass-based threshold laid down in point 1 of Annex VII. This threshold shall apply to the total net mass of goods of all CN codes aggregated per importer and per calendar year. Such importer, including importers with the status of an authorised CBAM declarant, shall declare such exemption in the relevant customs declaration.**
- 2. As from the moment that, within the relevant calendar year, an importer, including importers with the status of an authorised CBAM declarant, exceeds the single mass-based threshold referred to in paragraph 1, that importer or that authorised CBAM declarant shall be subject to all obligations under this Regulation, in respect of all the emissions embedded in all goods imported in the relevant calendar year.**
- 3. By July of each calendar year, the Commission shall assess, on the basis of the import data for the preceding 12 calendar months, whether the single mass-based threshold set out in point 1 of Annex VII ensures that paragraph 1 of this Article applies to no more than 1% of the emissions embedded in the imported goods and processed products. The Commission shall adopt delegated acts to amend the single mass-based threshold set out in point 1 of Annex VII by using the methodology set out in point 2 of that Annex, where the value of the resulting threshold deviates from the applicable threshold by more than 5 tonnes. The amended single mass-based threshold shall apply as of the beginning of the following calendar year.**
- 4. This Article shall not apply to imports of electricity and hydrogen.**

(2) Article 3 is amended as follows:

(a) point (15) is replaced by the following:

‘(15) ‘importer’ means either the person lodging a customs declaration for release for free circulation of goods or a bill of discharge in accordance with Article 175(5) of Delegated Regulation (EU) 2015/2446 in its own name and on its own behalf or, where the customs declaration is lodged by an indirect customs representative in accordance with Article 18 of Regulation (EU) No 952/2013, the person on whose behalf such a declaration is lodged;

(b) point (31) is replaced by the following:

‘(31) ‘operator’ means any person that operates or controls an installation in a third country, including a parent company controlling an installation in a third country;’;

(3) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Any importer established in a Member State shall, prior to importing goods into the customs territory of the Union, apply for the status of authorised CBAM declarant (‘application for an authorisation’).

An indirect customs representative shall submit the application for authorisation where the indirect customs representative is appointed by an importer in accordance with Article 18 of Regulation (EU) No 952/2013 and agrees to act as authorised CBAM declarant, ~~including where that~~ **irrespective of whether the** importer is ~~subject to the derogation~~ **exempted from the obligations under this Regulation** pursuant to Article ~~2a-2(3a)~~.’;

(b) the following paragraph 1a is inserted:

‘1a. ~~An importer shall submit~~ **Where Article 2a applies,** the application for an authorisation ~~in accordance with paragraph 1~~ **shall be submitted in cases** where the importer expects to exceed the **single mass-based** threshold ~~laid down in point 1 of Annex VII referred to in that Article~~.’;

(c) paragraph 2 is replaced by the following:

‘2. Where an importer is not established in a Member State, the indirect customs representative shall apply for the status of authorised CBAM declarant, ~~including where that~~ **irrespective of whether the** importer is ~~subject to the derogation~~ **exempted from the obligations under this Regulation** pursuant to Article ~~2a-2(3a)~~.’;

(d) ~~in~~ paragraph 5 **is amended as follows:-**

(i) point (g) is replaced by the following:

‘(g) estimated ~~monetary value~~, volume of imports of goods into the customs territory of the Union by type of goods and information on the Member States of import, for the calendar year during which the application is submitted, and for the following calendar year.’;

(ii) the following point is inserted:

‘(ga) authorised economic operator (AEO) number, if applicable.’;

(e) the following paragraph 7a is inserted:

‘7a. An authorised CBAM declarant may delegate the submission of CBAM declarations as referred to in Article 6 to a person acting on behalf and in the name of that declarant. The authorised CBAM declarant shall remain responsible for ~~performing~~ **compliance** **with** the obligations ~~set out with regard~~ **applicable** to authorised CBAM declarants ~~in~~ **under** this Regulation.’;

(4) Article 6 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. By ~~31 August~~**30 September** of each year, and for the first time in 2027 for the year 2026, each authorised CBAM declarant shall use the CBAM registry referred to in Article 14 to submit a CBAM declaration for the preceding calendar year.’

(b) paragraph 2 is replaced by the following:

2. The CBAM declaration shall contain the following information:

(a) the total quantity of each type of goods imported during the preceding calendar year, expressed in megawatt-hours for electricity and in tonnes for other goods, including the imported goods below the threshold laid down in point 1 of Annex VII);

(b) the total embedded emissions in the goods referred to in point (a) of this paragraph, expressed in tonnes of CO₂e emissions per megawatt-hour of electricity or, for other goods, in tonnes of CO₂e emissions per tonne of each type of goods, calculated in accordance with Article 7 and verified, ~~when~~**where the embedded emissions are determined on the basis of** actual emissions ~~are used~~, in accordance with Article 8;

(c) the total number of CBAM certificates to be surrendered, corresponding to the total embedded emissions referred to in point (b) of this paragraph after the reduction that is due on the account of the carbon price paid in a third country in accordance with Article 9 and the adjustment necessary to reflect the extent to which EU ETS allowances are allocated free of charge in accordance with Article 31;

(d) where applicable, copies of verification reports, issued by accredited verifiers, under Article 8 and Annex VI.’;

(c) paragraph 6 is replaced by the following:

‘6. The Commission is empowered to adopt implementing acts concerning the standard format of the CBAM declaration, including detailed information for each installation and country of origin or other third country and type of goods to be reported, which supports the totals referred to in paragraph 2 of this Article, in particular as regards embedded emissions, the carbon price paid, the default carbon price **for the purpose of Article 9(3a)**, the procedure for submitting the CBAM declaration via the CBAM registry, and the arrangements for surrendering the CBAM certificates referred to in paragraph 2, point (c), of this Article, in accordance with Article 22(1), in particular as regards the process and the selection by the authorised CBAM declarant of certificates to be surrendered. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).’;

(5) Article 7 is amended as follows:

(-a) paragraph 2 is replaced by the following:

‘2. Embedded emissions in goods other than electricity shall be determined:

a) based on the actual emissions in accordance with the methods set out in points 2 and 3 of Annex IV, or

b) by reference to default values in accordance with the methods set out in point 4.1 of Annex IV.’;

(a) paragraph 5 is replaced by the following:

‘5. The authorised CBAM declarant shall keep records of the information required to calculate the embedded emissions in accordance with the requirements laid down in Annex V. Those records shall be sufficiently detailed to enable verifiers accredited pursuant to Article 18, where applicable, to verify the embedded emissions in accordance with Article 8 and Annex VI and to enable the Commission and the competent authority to review the CBAM declaration in accordance with Article 19(2).’;

(b) in paragraph 7, point (a) is replaced by the following:

‘(a) the application of the elements of the calculation methods set out in Annex IV, including determining system boundaries of production processes, which shall be limited to the system boundaries of production processes covered by the EU ETS, and relevant input materials (precursors), emission factors, installation-specific values of actual emissions and default values and their respective application to individual goods, as well as lay down methods to ensure the reliability of data on the basis of which the default values shall be determined, including the level of detail of the data, and including further specification of goods that are to be considered as ‘simple goods’ and ‘complex goods’ for the purpose of point 1 of Annex IV. Those implementing acts shall also specify the elements of evidence demonstrating that the criteria required to justify the use of actual emissions for electricity consumed in the production processes of goods for the purpose of paragraph 2 that are listed in points 5 and 6 of Annex IV are met; **and**’;

(6) in Article 8, paragraph 1 is replaced by the following:

‘1. Where the embedded emissions are determined on the basis of actual emissions, the authorised CBAM declarant shall ensure that the total embedded emissions declared in the CBAM declaration submitted pursuant to Article 6 are verified by a verifier accredited pursuant to Article 18, based on the verification principles set out in Annex VI.’;

(7) Article 9 is replaced by the following:

‘Article 9

Carbon price paid in a third country

1. An authorised CBAM declarant may claim in the CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order to take into account the carbon price paid in a third country for the declared embedded emissions. The reduction may be claimed only if the carbon price has been effectively paid in a third country. In such a case, any rebate or other form of compensation available in that country that would have resulted in a reduction of that carbon price shall be taken into account.

2. The authorised CBAM declarant shall keep records of the documentation required to demonstrate that the declared embedded emissions were subject to a carbon price in a third country that has been effectively paid as referred to in paragraph 1. The authorised CBAM declarant shall in particular keep evidence related to any rebate or other form of compensation available, in particular the references to the relevant legislation of that country. The information contained in that documentation shall be certified by a person that is independent from the authorised CBAM declarant and from the authorities of the third country. The name and contact information of that independent person shall appear on the documentation. The authorised CBAM declarant shall also keep evidence of the actual payment of the carbon price.

3. The authorised CBAM declarant shall keep the records referred to in paragraph 2 until the end of the fourth year after the year during which the CBAM declaration has been or should have been submitted.

3a. By way of derogation from paragraphs 1, 2 and 3, where the carbon price effectively paid in a third country for the declared embedded emissions cannot be determined, an authorised CBAM declarant may claim in the CBAM declaration a reduction in the number of CBAM certificates to be surrendered in order to take into account that carbon price for the declared embedded emissions, by reference to yearly default carbon prices. In such a case, any rebate or other form of compensation available in that country that would have resulted in a reduction of that default carbon price shall be taken into account. The reduction may be claimed only where a carbon price was set by the rules applicable in the third country and a yearly default carbon price can be determined for that third country, including on a conservative basis.

As from 2027, the Commission may, for third countries where carbon pricing rules are in place, determine, ~~publish the methodology~~ and make available, in the CBAM registry referred to in Article 14, the default carbon prices for those third countries, ~~based~~ **For that purpose, the Commission shall base itself** on the best available data from reliable, publicly available information and information provided by those third countries. ~~In such a case,~~ **The Commission shall take into account** any rebate or other form of compensation available in ~~that~~ **the relevant third** country that would have resulted in a reduction of ~~that~~ **the** default carbon price ~~shall be taken into account~~.

4. The Commission is empowered to adopt implementing acts concerning the conversion of the yearly average carbon price effectively paid in accordance with paragraph 1, and of the yearly default carbon prices ~~for the third countries,~~ determined in accordance with paragraph 3a, into a corresponding reduction of the number of CBAM certificates to be surrendered. Those acts shall also concern the conversion of the carbon price expressed in foreign currency into euro at the yearly average exchange rate, the evidence required of the actual payment of the carbon price, examples of any relevant rebate or other form of compensation referred to in paragraph 1, the qualifications of the independent person referred to in paragraph 2 of this Article and the conditions to ascertain that person's independence. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).';

- (8) Article 10 is replaced by the following:

Article 10

Registration of operators and of installations in third countries

1. The Commission shall, upon request by an operator of an installation located in a third country, register the information on that operator and on its installation in the CBAM registry referred to in Article 14.
2. The request for registration referred to in paragraph 1 shall contain the following information to be included in the CBAM registry upon registration:
 - (a) the name, address, corporate or activity registration number, contact information of the operator, and, if applicable, of its controlling entity including its parent company together with the supporting documents;
 - (b) the location of each installation including the complete address and geographical coordinates expressed in longitude and latitude, including six decimals;
 - (c) the main economic activity of the installation;
3. The Commission shall notify the operator of the registration in the CBAM registry. The registration shall be valid for a period of five years from the date of its notification to the operator of the installation.
4. The operator shall inform the Commission without delay of any changes in the information referred to in paragraph 2 arising after the registration, and the Commission shall update the relevant information in the CBAM registry.

5. The operator shall:

(a) determine the embedded emissions calculated in accordance with the methods set out in Annex IV, by type of goods produced at the installation referred to in paragraph 1 of this Article;

(b) ensure the embedded emissions referred to in point (a) of this paragraph are verified in accordance with the verification principles set out in Annex VI by a verifier accredited pursuant to Article 18;

(c) keep a copy of the verification report as well as records of the information required to calculate the embedded emissions in goods in accordance with the requirements laid down in Annex V for a period of four years after the verification has been performed, and, where applicable, a copy of the documentation required to demonstrate that the declared embedded emissions were subject to a carbon price in a third country that has been effectively paid, until the end of the fourth year after the year during which the independent person has certified the information contained in that documentation in accordance with Article 9(2);

(d) determine, where applicable, the carbon price paid in a third country in accordance with Article 9, and upload accompanying documentation and evidence.

6. The records referred to in paragraph 5, point (c), of this Article shall be sufficiently detailed to enable the verification of the embedded emissions in accordance with Article 8 and Annex VI, and to enable the review, in accordance with Article 19, of the CBAM declaration made by an authorised CBAM declarant to whom the relevant information was disclosed in accordance with paragraph 7 of this Article.

7. An operator may disclose the information on the verification of embedded emissions and the carbon price paid in a third country referred to in paragraph 5 of this Article to an authorised CBAM declarant. The authorised CBAM declarant shall be entitled to use that disclosed information in order to fulfil the obligation referred to in Article 8.

8. The operator may, at any time, ask to be deregistered from the CBAM registry. The Commission shall, upon such request, and after notifying the competent authorities, deregister the operator and delete the information on that operator and on its installation from the CBAM registry, provided that such information is not necessary for the review of CBAM declarations that have been submitted. The Commission may, after having given the operator concerned the possibility to be heard and having consulted with the relevant competent authorities, also deregister the information if the Commission finds that the information on that operator is no longer accurate. The Commission shall inform the competent authorities of such deregistration.';

- (9) the following Article 10a is inserted:

‘Article 10a

Registration of accredited verifiers

1. Where an accreditation is granted in accordance with Article 18, the accredited verifier shall submit a request for registration in the CBAM registry to the competent authority of the Member State in which the national accreditation body is established. The request for registration shall be submitted within two months from the granting of the accreditation. The competent authority shall register the information on accredited verifiers in the CBAM registry.
2. The request for registration referred in paragraph 1 shall at least contain the following information to be included in the CBAM registry upon registration:
 - (a) the name, and unique accreditation number of the verifier;
 - (b) the scopes of accreditation relevant for CBAM;
 - (c) the country of establishment of the verifier;
 - (d) the date of accreditation and expiry date of accreditation certificates relevant for CBAM;
 - (e) any information on administrative measures imposed on the verifier relevant for CBAM;
 - (f) copies of accreditation certificates.
3. The competent authority shall notify the verifier of the registration in the CBAM registry.

4. The accredited verifier shall notify the competent authority of any changes to the information referred to in paragraph 2 arising after the registration. The competent authority shall ensure that the relevant information is duly updated in the CBAM registry.

5. The verifier shall verify the embedded emissions in the CBAM registry upon **notification request** from an operator pursuant to Article 10(5), point (b).

6. The competent authority shall deregister a verifier from the CBAM registry where the verifier is no longer accredited pursuant Article 18 or where the verifier has not complied with the obligation laid down in paragraph 4. The competent authority shall notify the Commission and the other competent authorities of the deregistration. The competent authority shall delete the information on that accredited verifier from the CBAM registry provided that such information is not necessary for the review of CBAM declarations that have been submitted.’;

(10) Article 11 is amended as follows:

(a) in paragraph 1, first subparagraph, the following sentence is added:

‘Each Member State shall ensure that the designated authority have all the powers necessary for the performance of their functions and duties under this Regulation.’;

(b) the following paragraph 3 is added:

‘3. At the request of the Commission, competent authorities shall provide information on the implementation of this Regulation to the Commission. This information may be used by the Commission for the report pursuant to Article 30(6).’;

(11) Article 14 is amended as follows:

(a) paragraphs 3 and 4 are replaced by the following:

‘3. The CBAM registry shall contain, in a separate section of the registry, the information about the operators and installations in third countries registered in accordance with Article 10(2) and the information about the accredited verifiers registered in accordance with Article 10a.

4. The information in the CBAM registry referred to in paragraphs 2 and 3 shall be confidential, with the exception of the names, addresses, corporate or activity registration numbers, contact information of the operators, the location of installations in third countries and the information on accredited verifiers referred to in Article 10a(2). An operator may choose not to have its name, address, corporate or activity registration number, contact information and the location of its installations made accessible to the public. The public information in the CBAM registry shall be made accessible by the Commission in an interoperable format.’;

(b) paragraph 6 is replaced by the following:

‘6. The Commission shall adopt implementing acts concerning the infrastructure and specific processes and procedures of the CBAM registry, including the risk analysis referred to in Article 15, the electronic databases containing the information referred to in paragraphs 2 and 3 of this Article, the procedures and the technical credentials ~~to~~ **perform for** the delegation referred to in Article 5(7a), the data of the accounts in the CBAM registry referred to in Article 16, the transmission to the CBAM registry of the information on the sale and repurchase of CBAM certificates referred to in Article 20, and the cross-check of information referred to in Article 25(3) **and the information as referred to in Article 25a(3)**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).’;

(12) Article 17 is amended as follows:

(a) in paragraph 1, the second subparagraph is replaced by the following subparagraphs:

‘Before granting the status of authorised CBAM declarant, the competent authority may consult relevant competent authorities or the Commission via the CBAM registry ~~about on~~ the fulfilment of the ~~necessary conditions and~~ criteria set out in paragraph 2. for taking a favourable decision. The consultation ~~shall take place within the period prescribed for the decision concerned and~~ shall not exceed 15 calendar days.

~~The consultation procedure may also be applied for the purposes of re-assessment and monitoring of a decision.’;~~

(aa) paragraph 7 is replaced by the following:

‘7. The competent authority shall release the guarantee immediately after 30 September of the second year in which the authorised CBAM declarant has surrendered CBAM certificates in accordance with Article 22.’;

(b) in paragraph 8, the second subparagraph is replaced by the following:

‘Before revoking the status of authorised CBAM declarant, the competent authority shall give the authorised CBAM declarant the possibility to be heard. The competent authority may consult relevant competent authorities or the Commission via the CBAM registry on the conditions and criteria for the revocation. The consultation shall not exceed 15 calendar days.’;

(c) in paragraph 10, point (e) is replaced by the following:

‘(e) the specific deadlines, scope and format of the consultation procedure referred to in paragraphs 1 and 8 of this Article.’;

(12a) Article 18 is amended as follows:

(a) paragraph 1 is deleted;

(b) paragraph 2 is replaced by the following:

‘2. A national accreditation body may, on request, accredit a person to be a verifier for the purpose of this Regulation where it considers, on the basis of the documentation submitted to it, that such person has the capacity to apply the verification principles referred to in Annex VI when performing the tasks of verification of the embedded emissions pursuant to Articles 8 and 10. Where the applicant is accredited in accordance with Implementing regulation (EU) 2018/2067 for a relevant group of activities, the national accreditation body shall take this into account for the assessment of the qualifications of an accredited verifier that are necessary to perform verifications for the purpose of this Regulation.’;

(13) in Article 19(3), the second subparagraph is replaced by the following:

‘The Commission shall also facilitate the exchange of information with competent authorities about fraudulent activities, the conclusions pursuant to Article 25a and the penalties imposed in accordance with Article 26.’;

(14) Article 20 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. From 1 February 2027, a Member State shall sell CBAM certificates on a common central platform to authorised CBAM declarants established in that Member State.’;

(b) paragraph 3 is replaced by the following:

‘3. The information on the sale and repurchase of CBAM certificates in the common central platform shall be transferred to the CBAM registry at the end of each working day.’

(c) paragraph 6 is replaced by the following:

‘6. The Commission ~~is empowered to~~**shall** adopt delegated acts in accordance with Article 28 supplementing this Regulation by further specifying the timing, administration, **structure and level of fees** and other aspects related to the management of the sale and repurchase of CBAM certificates, seeking coherence with the procedures of Commission Delegated Regulation (EU) 2023/2830*. **The delegated acts shall ensure that the organisation and use of the common central platform is cost-efficient and that undue administrative costs are avoided. The revenues generated by the fees, shall constitute internal assigned revenue in accordance with Article 21(3)(a) of Regulation (EU, Euratom) No 2509/2024 of the European Parliament and of the Council. They shall be assigned to cover the costs of the establishment and management of the common central platform. Any revenue remaining after covering these costs shall be assigned to the Union budget.**

*Commission Delegated Regulation (EU) 2023/2830 of 17 October 2023 supplementing Directive 2003/87/EC of the European Parliament and of the Council by laying down rules on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances (OJ L, 2023/2830, 20.12.2023, ELI: http://data.europa.eu/eli/reg_del/2023/2830/oj).’;

(15) Article 21 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

‘The Commission shall calculate the price of CBAM certificates as the average of the closing prices of EU ETS allowances on the auction platform, in accordance with the procedures laid down in Delegated Regulation (EU) 2023/2830, for each calendar week.’;

(b) the following paragraph 1a is inserted:

‘1a. By way of derogation from paragraph 1, ~~for the year 2026~~, the Commission shall calculate the price of CBAM certificates that corresponds to the embedded emissions declared in respect of the year 2026 in accordance with Article 6(2), ~~point (b)~~, ~~in 2027~~ as the quarterly average of the closing prices of EU ETS allowances on the auction platform, in accordance with the procedures laid down in Delegated Regulation (EU) 2023/2830, of the quarter of importation of the goods ~~to in~~ which those emissions ~~correspond~~ are embedded.’;

(c) paragraph 3 is replaced by the following:

‘3. The Commission is empowered to adopt implementing acts on the application of the methodology provided for in paragraphs 1 and 1a to calculate the price of CBAM certificates and the practical arrangements for the publication of that price. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29(2).’;

(16) Article 22 is amended as follows:

(a) in paragraph 1, the first sentence is replaced by the following:

‘By ~~31 August~~30 September of each year, and for the first time in 2027 for the year 2026, the authorised CBAM declarant shall surrender via the CBAM registry a number of CBAM certificates that corresponds to the embedded emissions declared in accordance with Article 6(2), point (c), and verified in accordance with Article 8, for the calendar year preceding the surrender.’;

(b) paragraph 2 is replaced by the following:

‘2. From ~~the first quarter of the year~~ 2027, the authorised CBAM declarant shall ensure that the number of CBAM certificates on its account in the CBAM registry at the end of each quarter corresponds to at least 50 % of the embedded emissions in all goods it has imported since the beginning of the calendar year, ~~taking into account the adjustment for free allocation as referred to in Article 31,~~ determined by reference to ~~any either~~ of the following:

(a) default values in accordance with the methods set out in Annex IV without the mark-up as referred to in Section 4.1 of that Annex; or

(b) the number of CBAM certificates surrendered in accordance with paragraph 1 for the calendar year preceding the year of the surrender, provided that the customs declaration for the import of goods refers to the same goods by CN code and countries of origin as the CBAM declaration submitted ~~for the preceding in the~~ calendar year preceding the current year.

For the purpose of this paragraph, the adjustment for free allocation as referred to in Article 31 shall be taken into account.’;

(c) the following paragraph 2a is inserted:

‘2a. ~~The~~ **An importer, including importers with the status of an** authorised CBAM declarant, **that is exempted from the obligations under this Regulation in accordance with Article 2a** shall comply with the obligation laid out in paragraph 2 ~~at by~~ the end of the quarter ~~where the authorised CBAM declarant exceeds~~ **in which** the **single mass-based** threshold laid down in Annex VII **is exceeded**.’;

(17) Article 23 is amended as follows:

(a) in paragraph 1, second subparagraph, the second sentence is replaced by the following:

‘The authorised CBAM declarant shall submit the repurchase request by **31 October 30** ~~November~~ of each year during which CBAM certificates were surrendered.’;

(b) paragraph 2 is replaced by the following:

‘2. The number of CBAM certificates ~~purchased during a calendar year and~~ subject to repurchase as referred to in paragraph 1 shall be limited to the total number of CBAM certificates ~~needed to fulfil~~ **purchased for the purpose of complying with** the obligations set out in Article 22(2) during ~~that~~ **the** calendar year **of the purchase of the CBAM certificates**.

Where an authorised CBAM declarant who has been purchasing CBAM certificates in a calendar year on the basis of a reasonable expectation to exceed the single mass-based threshold referred to in Article 2a does not exceed such threshold, all CBAM certificates shall be repurchased upon request of the authorised declarant pursuant to paragraph 1 of this Article.’;

(c) the following paragraph 2a is inserted:

‘2a. **By way of derogation from paragraph 2, CBAM certificates purchased in 2027 in respect of the embedded emissions for the year 2026 may only be repurchased in 2027.** ~~By way of derogation from paragraph 2, the number of CBAM certificates that corresponds to the embedded emissions declared in accordance with Article 6(2) in 2027 for the year 2026 which have not been surrendered in accordance with Article 22(1) shall be subject to repurchase as referred to in paragraph 1 only in 2027.~~’;

(18) Article 24 is ~~amended as follows~~**replaced by the following**:

~~(a) — in the first paragraph, the first sentence is replaced by the following:~~

'Article 24

Cancellation of CBAM certificates

~~1.~~ **1.** On 1 ~~October~~**November** of each year, the Commission shall cancel any CBAM certificates that were purchased during the year before the previous calendar year and that remained in the account of an authorised CBAM declarant in the CBAM registry. Those CBAM certificates shall be cancelled without any compensation';

~~(b) — the following paragraph is added:~~

2. By way of derogation from ~~the first~~ paragraph **1**, on 1 ~~[December]~~ 2027, the Commission shall cancel any CBAM certificates ~~that correspond to~~**purchased in respect of** the embedded emissions ~~declared in accordance with Article 6(2) in 2027~~ for the year 2026. Those CBAM certificates shall be cancelled without any compensation.'

3. Where the number of CBAM certificates to be surrendered is contested in a pending dispute in a Member State, the Commission shall suspend the cancellation of the CBAM certificates to the extent corresponding to the disputed amount. The competent authority of the Member State where the authorised CBAM declarant is established shall communicate without delay any relevant information to the Commission.;

(19) Article 25 is amended as follows:

(-a) paragraph 1 is replaced by the following:

‘1. Without prejudice to Article 2a, the customs authorities shall not allow the importation of goods by any person other than an authorised CBAM declarant.’;

(a) in paragraph 2, the second sentence is replaced by the following:

‘That information shall include the EORI number or the form of identification declared in accordance with Article 6(2) of **Commission** Delegated Regulation (EU) 2015/2446, and the name, address and contact information, of the importer or of the authorised CBAM declarant as well as the CBAM account number of the authorised CBAM declarant, the eight-digit CN code of the goods, the quantity, the country of origin, the date of the customs declaration and the customs procedure.’;

(b) paragraph 3 is replaced by the following:

‘3. The Commission shall **periodically** communicate the information referred to in paragraph 2 of this Article to the competent authority of the Member State where the authorised CBAM declarant or the importer is established and shall, for each CBAM declarant, cross-check that information with the data in the CBAM registry pursuant to Article 14.’;

(c) paragraph 4 is replaced by the following:

‘4. The customs authorities may communicate, in accordance with Article 12(1) of Regulation (EU) No 952/2013, confidential information acquired by the customs authorities in the course of performing their duties, or provided to the customs authorities on a confidential basis, to the Commission and to the competent authority of the Member State that has granted the status of the authorised CBAM declarant or to the competent authority of the Member State where the importer is established.’;

(20) the following Article 25a is inserted:

‘Article 25a

Monitoring and enforcement of the threshold laid down in point 1 of Annex VII

1. The competent authorities and the Commission shall monitor the importation of goods ~~listed in Annex I and the corresponding~~ **for the purpose of compliance with the single mass-based** threshold laid down in point 1 of Annex VII.

The Commission shall periodically and automatically exchange with competent authorities **the** information necessary for the monitoring of importers ~~in~~ **via** the CBAM registry.

2. Where the Commission considers, based on a preliminary assessment **and the data that the customs authorities have communicated to the Commission pursuant to Article 25(2)**, that an importer has exceeded the **single mass-based** threshold, it shall communicate ~~the~~ **that** information ~~on which the~~ **as well as the basis for its** preliminary assessment ~~is based~~ to the competent authority of the Member State where the importer is established.

The competent authority may request from the importer, ~~the customs authorities~~ or the Commission documentary evidence necessary for assessing whether the importer has exceeded the **single mass-based** threshold. **Where the documentary evidence is not sufficient to assess that the importer has exceeded such threshold, the competent authorities may request additional documentary evidence from the customs authorities if available.**

3. Where the competent authority concludes that an importer has exceeded the **single mass-based** threshold, it shall ~~inform the importer of the~~ **without undue delay adopt a decision to this end**. The decision shall ~~include~~ **contain** the reasons for the decision, as well as information about the right to appeal, ~~and~~ the **applicable** penalties ~~applied in accordance with Article 26(2), and a request to apply, where necessary, for authorisation.~~ **The competent authority shall inform the importer of the obligations applicable under this Regulation including, where applicable, the obligation to acquire the status of an authorised CBAM declarant** in accordance with Article 5 **before the importer may import any other goods**. The competent authority shall also notify the customs authorities and the Commission of the decision via the CBAM registry.

The submission of an appeal **against a decision determining that the importer has exceeded the single mass-based threshold shall not have suspensive effects** ~~shall not suspend the implementation of the disputed decision.~~

4. ~~In concluding~~ **For the purpose of determining** whether an importer has exceeded the **single mass-based** threshold ~~in accordance with paragraph 3~~, a competent authority shall disregard a practice or an arrangement or a series thereof ~~that are which has been put into place for the main purpose or one of the main purposes of falling below the threshold and are therefore, having regard to all relevant facts and circumstances,~~ not genuine.

A practice or an arrangement or a series thereof shall be regarded as not genuine where, **having regard to all relevant facts and circumstances, it cannot be considered** they are ~~not to have been~~ put into place for valid commercial reasons **related to the economic activity of the importer,** ~~which reflect economic reality. All importers involved in such a practice or arrangement shall be jointly liable for the penalty applied in accordance with Article 26(2).~~

~~In such cases, the competent authority shall consider that the importer has been involved in a serious infringement of this Regulation for the purpose of Article 17(2), point (a).~~

For the purpose of Article 17(2), point (a) and Article 26(2), where the competent authority concludes that the importer has engaged in a practice or an arrangement, or a series thereof, that is considered as non-genuine, the importer shall be considered to have been involved in a serious infringement of this Regulation.

5. ~~The~~ **For the purpose of the monitoring under this Article, the** Commission shall periodically, **at least once per calendar year or as issues arise,** set out specific risk factors and points for attention, based on a risk analysis in relation to the threshold, taking into account information contained in the CBAM registry, data communicated by customs authorities in accordance with Article 25, and other relevant information sources, including irregularities identified as a result of the controls carried out in accordance with Article 15(1). **This information and points of attention shall be communicated to the competent authorities and the customs authorities where relevant.**;

(21) Article 26 is amended as follows:

(a) ~~the following~~ paragraph 1 **is replaced by the following**~~a is inserted:~~

'1. An authorised CBAM declarant who fails to surrender, by 30 September of each year, the number of CBAM certificates that corresponds to the emissions embedded in goods imported during the preceding calendar year shall be held liable for the payment of a penalty. Such a penalty shall be identical to the excess emissions penalty set out in Article 16(3) of Directive 2003/87/EC and increased pursuant to Article 16(4) of that Directive, applicable in the year of importation of the goods. Such a penalty shall apply for each CBAM certificate that the authorised CBAM declarant has not surrendered.

The competent authority may decrease the amount of the penalty [by 50%] where the authorised CBAM declarant, despite exercising best efforts to comply with Articles 6 and 22 of this Regulation, failed to surrender the correct number of CBAM certificates as a result of incorrect information on actual emissions provided by the operator or the verifier.

The term 'best efforts', which is referred to in this Article but is not defined, shall be interpreted and applied in accordance with the applicable national law.'

~~'1a. The competent authority may decrease the amount of the penalty calculated in accordance with paragraph 1, considering one or more of the following factors:~~

~~a) the extent of unreported information;—~~

~~b) the level of cooperation and readiness of the authorised CBAM declarant to comply with requests for information;~~

~~c) the unintentional nature of the behaviour of the authorised CBAM declarant;~~

~~d) the past compliance of the authorised CBAM declarant.'~~

(b) ~~[deleted]~~ paragraphs 2 and 3 are replaced by the following:

~~‘2. Where a person other than an authorised CBAM declarant introduces goods into the customs territory of the Union without complying with the obligations under this Regulation, that person shall be held liable for the payment of a penalty. Such a penalty shall be effective, proportionate and dissuasive and shall, depending in particular on the duration, gravity, scope, intentional nature and repetition of such non-compliance and the level of cooperation of the person with the competent authority, be an amount from three to five times the penalty referred to in paragraph 1, applicable in the year of introduction of the goods, for each CBAM certificate that the person has not surrendered. The payment of the penalty shall release the person from the obligation to submit a CBAM declaration or surrender certificates.~~

~~3. The payment of the penalty in accordance with paragraph 1 shall not release the authorised CBAM declarant from the obligation to surrender the outstanding number of CBAM certificates in a given year.’;~~

(c) the following paragraph is inserted:

4a. For the purposes of paragraph 1 and 2 of this Article, the competent authority shall calculate the total number of CBAM certificates that should have been surrendered based on the net mass of the imported goods and by reference to the embedded emissions determined by default values in accordance with the methods set out in Annex IV and taking into account the adjustment for free allocation as referred to in Article 31.

(22) in Article 27(2), point (b) is replaced by the following:

‘(b) artificially splitting imports, including via non-genuine arrangements, to avoid exceeding the **single mass-based** threshold **laid down in point 1 of Annex VII** referred to ~~in Article 2(3a)~~.’;

(23) Article 28 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

‘2. The power to adopt delegated acts referred to in Articles ~~2a 2(3a)~~, 2(10), 2(11), 18(3), 20(6) and 27(6) shall be conferred on the Commission for a period of five years from [date of publication **of the amending CBAM regulation (this Regulation)**]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for further periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles ~~2a 2(3a)~~, 2(10), 2(11), ~~9(5)~~, 18(3), 20(6) and 27(6) may be revoked at any time by the European Parliament or by the Council.’;

(b) paragraph 7 is replaced by the following:

‘7. A delegated act adopted pursuant to Articles ~~2a 2(3a)~~, 2(10), 2(11), ~~9(5)~~, 18(3), 20(6) or 27(6) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.’;

(24) in Article 30(6), point (b), the following point is added:

‘(v) the application of the threshold laid down in point 1 of Annex VII.’;

(25) Article 36(2) is amended as follows:

(a) point (b) is replaced by the following:

‘Article 2(2), **Article 2a** and Articles 4, 6 to 9, **10a**, 15 and 19, Articles 21 to 22(1), Article 22(3), Articles **23 to 27** and 31 shall apply from 1 January 2026.’;

(b) the following points are added:

(c) Article 22(2) shall apply as from 1 January 2027;

(d) Article 20(1), (3), (4) and (5) shall apply as from 1 February 2027.’;

(26) in Annex I, the CN code “2507 00 80 – Other kaolinic clays” is replaced by ‘2507 00 80 – Other kaolinic clays [except non-calcined kaolinic clays]’;

(27) in Annex II, the following table is added:

‘[Electricity

CN code	Greenhouse gas
2716 00 00 – Electrical energy	Carbon dioxide

]’;

(28) Annex IV is amended in accordance with Annex I to this Regulation.

(28a) in section 2 of Annex V, the following point is added:

‘(e) information and the method used to calculate the embedded emissions.’;

(28b) in section 2, point (k), of Annex VI, point (iii) is replaced by the following:

‘(iii) the identification of the installations where the input material (precursor) has been produced and the actual emissions from the production of that material;’;

(29) a new Annex VII as set out in Annex II to this Regulation is added:

Article 2

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

Annex IV is amended as follows:

(0) point 3 is replaced by the following:¹

“3. DETERMINATION OF ACTUAL EMBEDDED EMISSIONS FOR COMPLEX GOODS

For determining the specific actual embedded emissions of complex goods produced in a given installation, the following equation is to be applied:

$$SEE_g = \frac{AttrEm_g + EE_{InpMat}}{AL_g}$$

Where:

AttrEm_g are the attributed emissions of goods g;

AL_g is the activity level of the goods, being the quantity of goods produced in the reporting period in that installation, and

EE_{InpMat} are the embedded emissions of the input materials (precursors) consumed in the production process. Only input materials (precursors) listed **in ANNEX I and originating in third countries and territories that are not exempted pursuant to Annex III, Section 1 as relevant to the system boundaries of the production process as specified in the implementing act adopted pursuant to Article 7(7)** are to be considered. The relevant EE_{InpMat} are calculated as follows:

$$EE_{ImpMat} = \sum_{i=1}^n M_i \cdot SEE_i$$

¹ **NOTE: for ease of reference, in this point: only the amendments to the current text of the CBAM Regulation are visualised.**

Where:

M_i is the mass of input material (precursor) i used in the production process, and

SEE_i are the specific embedded emissions for the input material (precursor) i . For SEE_i the operator of the installation shall use the value of emissions resulting from the installation where the input material (precursor) was produced, provided that that installation's data can be adequately measured.”

(1) in point 4, the third sentence is deleted.

(2) point 4.1 is amended as follows:

(-a) the first sentence is deleted.

(-aa) the second sentence is replaced by the following:

‘Default values shall be set at the average emission intensity of each exporting country and for each of the goods listed in Annex I other than electricity, increased by a proportionately designed mark-up.’;

(a) the fourth sentence is replaced by the following:

‘When reliable data for the exporting country cannot be applied for a type of goods, the default values shall be based on the average emission intensity of the ten exporting countries with the highest emission intensities for which reliable data can be applied for that type of goods.’;

(b) the fifth sentence is deleted;

(3) in point 7, the second paragraph is replaced by the following:

‘Where declarants for goods produced in a third country, a group of third countries or a region within a third country can demonstrate, on the basis of reliable data, that alternative region-specific adaptations of default values are lower than the default values determined by the Commission, such region-specific adaptations can be used.’

ANNEX II

The following Annex VII is added:

‘ANNEX VII

Threshold referred to in Article ~~2a2(3a)~~

1. The threshold referred to in Article ~~2a 2(3a)~~ shall be set at 50 tonnes of net mass.
2. For **the purpose of Article 2a(3) determining the threshold**, the following methodology shall **apply**~~be applied~~:

$$\bar{Q} \text{ chosen such that } \frac{\sum_{i=1}^N Em_i \times \mathbf{1}_{-(Q_i > \bar{Q})}}{\text{Total emissions}} \geq \text{target share of emissions of 99\%}$$

Where:

- \bar{Q} is the mass-threshold in tonnes allowing to capture a given target share of emissions;
- Annual emissions per importer; $i, Em_i = \sum_{j=1}^{J_i} q_{i,j} EI_j$;
- $q_{i,j}$ is the imported volume in tonnes by importer i of the CN code j ;
- J_i is the number of CN codes imported by importer i among the four sectors considered (aluminium, cement, fertilisers, iron and steel);
- EI_j is the emission intensity for CN code j ¹;
- *Total emissions*: the total emissions in CO₂ of the four CBAM sectors considered, that is the sum of corresponding emissions for all importers: *total emissions* = $\sum_{i=1}^N Em_i$, where N is the number of importers;

¹ The emission intensities E_j are based on default values (without mark-up) for emissions published for the transitional period. For cement and fertiliser products, direct emissions and indirect emissions are considered; for aluminium and iron and steel products, only direct emissions are considered. For future updates of the threshold, the default values shall be set in accordance with the methods set out in Annex IV without the mark-up as referred to in Section 4.1 of Annex IV.

- $Q_i = \sum_{j=1}^{J_i} q_{i,j}$: the total volume in tonnes of CBAM goods imported by importer i ;
- $1(Q_i > \bar{Q})$ is an indicator function equal to 1 when $Q_i > \bar{Q}$ (that is, when an importer is importing volumes higher than the mass-threshold \bar{Q}), 0 otherwise.

To capture uncertainty over changes in trade patterns ~~while maintaining the environmental objective of this Regulation~~, a margin of 0.25 percentage points is added to the above target share of emissions ~~to the level of 99% of the embedded emissions as referred to in Article 2(3a) of this Regulation~~.

~~For simplicity, the The threshold shall be rounded to the nearest ten.~~

~~By July of each calendar year, the Commission shall, based on import data covering a reference period of 12 months preceding the month¹ of this assessment, assess whether the value derived from the methodology deviates by more than 5 tonnes from the threshold laid down in point 1.'~~

¹ ~~For the purposes of establishing the threshold referred to under point 1, import volumes by importer were calculated based on import data for the period of 1 October 2023 to 30 September 2024.~~